

Remarks/Arguments

The Office Action stated that Claims 1 to 5, 13, 17, 18 and 20 to 22 are allowed.

Applicant thanks the Examiner for indicating in the record that such claims have been allowed. Claims 1, 6 to 9, 14 to 17 and 23 have been amended (some only to correct formulae, etc.) Support for the other amendments is also discussed below.

The Office Action stated that Claim 12 had been withdrawn from consideration. Claim 12 has been cancelled.

Support for new Claim 23 is found on page 7, line 25, and page 8, line 30.

The Office Action stated: that applicant's amendment, filed on August 6, 2007, has overcome the objection of Claims 1, 6 and 14 for informalities, the objection to the abstract, and the objection to the oath/declaration, and that the above objections have been withdrawn.

The Office Action stated that the following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 to 11, 14 to 16 and 19 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant traverses this statement. The Examiner has not factually proven in the record that the term "stabilizing ligand" is not (clearly or otherwise) defined in the specification and/or is not well known in meaning in the art.

The Office Action stated that specifically, the term "stabilizing ligand" is not clearly defined in the specification, so the Examiner can know what subject matter is encompassed by the term. Applicant asserts that the term is defined in the art and the specification so the Examiner can readily know what subject matter is encompassed by the term. Furthermore, the

Examiner has not factually proven in the record his assertion, and the Examiner has not considered in the record that which is known concerning the term.

The invention uses a transition metal complex of a chiral bidentate phosphine ligand. The chiral bidentate phosphine ligand is a stabilizing ligand. Page 5, line 20, to page 7, line 18, of the specification discusses preferred chiral bidentate phosphine ligands. Immediately following such discussion of preferred chiral bidentate phosphine ligands, the specification states:

“The catalyst precursor complex optionally comprises at least one further stabilizing ligand...” [Emphasis Supplied] [Page 7, lines 20 and 21]

“Furthermore, the catalyst solution can be obtained by dissolving a preformed chiral transition metal-ligand complex which already contains further stabilizing ligands.” [Emphasis Supplied] [Page 8, lines 1 to 3]

Applicant's disclosure establishes that applicant teaches that the chiral bidentate phosphine ligand is a stabilizing ligand. The meaning of the term “stabilizing ligand” is well known in the art and its use in the art is also extensive. The patent law allows use of a term that is well known in the art (as is the case here).

The Office Action stated that only two examples are given in the specification such as 1,5-cyclooctadiene and p-cymene but the specification states that the stabilizing ligand can be a diene, alkene or arene. The art well knows the definition of stabilizing ligands, and can readily apply it to the invention at bar. That which is a further stabilizing ligand is adequately defined and illustrated in applicant's specification for the art.

The rejection should be withdrawn.

Reconsideration, reexamination and allowance of the claims are requested.

Respectfully submitted,

March 24, 2008
Date

Virgil H. Marsh
Virgil H. Marsh
Reg. No. 23,083

Fisher, Christen & Sabol
1725 K St. NW
Suite 1108
Washington, DC 20006
Tel.: 202-659-2000
Fax: 202-659-2015
fcsabol@aol.com

